

10125-E

RECORDATION NO. 10125-5 Filed 1425

AMENDMENT TO AGREEMENT OF LEASE

APR 11 1979 -2 15 PM

INTERSTATE COMMERCE COMMISSION

AMENDMENT, dated April 11, 1979, by and between REFCO RAIL EQUIPMENT, INC., a Delaware corporation having its principal office and place of business at 39 South LaSalle Street, Chicago, Illinois 60603 ("Lessor"), and FUNDING SYSTEMS RAILCARS, INC., a Delaware corporation having its principal office and place of business at 1000 RIDC Plaza, Pittsburgh, Pennsylvania 15238 ("Lessee").

WHEREAS, the parties hereto have executed and delivered an Agreement of Lease dated February 19, 1979, as amended, (collectively the "Agreement of Lease"), and

WHEREAS, the parties hereto desire to further amend the Agreement of Lease to provide for the leasing of additional railroad cars thereunder;

NOW, THEREFORE, the parties hereto, desiring legally to be bound, hereby agree as follows:

1. The term "Equipment" (as such term is defined in Section 2 of the Agreement of Lease) shall hereinafter include the additional railroad cars described on the Schedule attached hereto ("Additional Equipment").

2. The term "Fixed Rent" (as such term is defined) shall hereinafter include the additional amounts referred to in Schedule A attached hereto at the times provided for therein ("Additional Fixed Rent").

3. The Agreement of Lease is hereby amended to reflect the Additional Equipment and Additional Fixed Rent and, as so amended, the Agreement of Lease shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day and year first above written.

[SEAL]

LESSOR: REFCO RAIL EQUIPMENT, INC.

WITNESS:

By:

Allen P. Pallos  
Vice President

[SEAL]

LESSEE: FUNDING SYSTEMS RAILCARS, INC.

WITNESS:

By:

Stanley B. Scheinman  
Stanley B. Scheinman, President

STATE OF ILLINOIS )  
COUNTY OF COOK ) ss.:

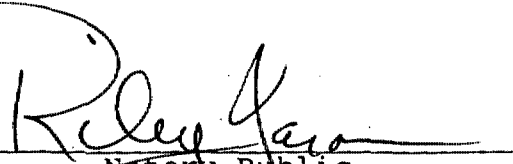
On this            day of April, 1979, before me personally appeared Allen P. Palles to me personally known, who being by me duly sworn, did depose and say that he is the Vice President of Refco Rail Equipment, Inc., the corporation which executed the foregoing Agreement, that the seal affixed to the foregoing Agreement is the corporate seal of said corporation, that said Agreement was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing Agreement was the free act and deed of said corporation.

Carolyn C. Wilford  
Notary Public

My Commission Expires Feb. 13, 1981

STATE OF NEW YORK     )  
                              :   SS.:  
COUNTY OF NEW YORK    )

On this 9<sup>th</sup> day of April, 1979, before me personally appeared Stanley B. Scheinman to me personally known, who being by me duly sworn, did depose and say that he is the President of Funding Systems Railcars, Inc. the corporation which executed the foregoing Amendment, that the seal affixed to the foregoing Amendment is the corporate seal of said corporation, that said Amendment was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing Amendment was the free act and deed of said corporation.

  
\_\_\_\_\_  
Notary Public  
RILEY J. AARON  
Notary Public, State of New York  
No. 37-38-16  
Qualified in New York County  
Commission Expires March 30, 1980

## SCHEDULE A

The expiration date of the Lease Term with regard to the Equipment described on the annexed Schedule shall be September 30, 1994. Fixed Rent for the Equipment described on the annexed Schedule shall be as follows:

(1) Monthly installments in the amount of:

- (a) \$361.78 for each of the first eight (8) full months (May through December, 1979) of the term hereof;
- (b) \$808.33 for each of the next twelve (12) months (January, 1980 through December, 1980) during the term hereof;
- (c) \$891.67 for each of the next twelve (12) months (January, 1981 through December, 1981) during the term hereof;
- (d) \$993.75 for each of the next twelve (12) months (January, 1982 through December 1982) during the term hereof;
- (e) \$2,669.36 for each of the next forty-eight (48) months (January 1983 through December 1986) during the term hereof;
- (f) \$2,856.86 for each of the next twelve (12) months (January, 1987 through December, 1987);
- (g) \$3,065.19 for each of the next twelve (12) months (January, 1988 through December, 1988);
- (h) \$3,273.53 for each of the next twelve (12) months (January, 1989 through December, 1989); and
- (i) \$3,586.03 for each of the next remaining fifty-eight (58) months (January, 1990 through October, 1994) during the term hereof.

Rent for the period ending April 30, 1979 in the amount of \$253.25 shall be due and payable hereunder on April 30, 1979.

(2) Additional amounts determined as follows:

Lessor shall be entitled on an annual basis to 50% of any "Net Proceeds" (as hereinafter defined) for the

applicable year. Such 50% of Net Proceeds shall be payable to Lessor annually on or before April 30 of the year following the applicable year if and only to the extent that Lessee shall receive, under the Existing Underlying Agreement for the applicable year, net cash applicable to the Equipment, after payment and deduction of all amounts required to be paid and deducted under the Existing Underlying Agreement (including any required payments [other than required prepayments under the Liens based upon available cash flow] to the holder of the Liens). For purposes hereof, "Net Proceeds" shall mean the difference between:

- (a) any amounts payable, in the applicable year, to Lessee (as "Lessor" under the Existing Underlying Agreement) under the Existing Underlying Agreement in excess of the amount (the "Amount") specified in the Existing Underlying Agreement as the amount above which the Underlying User thereunder will be entitled to a 50% incentive management fee; less
  - (b) a sum equal to 10% of the Amount.
- (3) All monthly rent installments required to be paid under subsection (1) above shall be payable on the last day of each month.

SCHEDULE

The Equipment consists of five (5) 50' 6" type XM railroad boxcars, bearing indentifying numbers as follows:

NSL 156110 though 156114, inclusive.